

UNITED STATES BANKRUPTCY COURT

Eastern District of California

Honorable Thomas C. Holman
Bankruptcy Judge
Sacramento, California

October 29, 2013 at 9:31 A.M.

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1. [13-30002](#)-B-7 MARISOL OSTDIEK MOTION FOR RELIEF FROM
EGS-1 AUTOMATIC STAY
9-30-13 [[11](#)]
GUILD MORTGAGE COMPANY VS.

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. §§ 362 (d) (1) and (d) (2) in order to permit the movant to foreclose on the real property located at 1212 Chesapeake Drive, Roseville, CA 95661 ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a) (3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make three (3) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion and a report of no distribution.

The court will issue a minute order.

2. [13-23406](#)-B-7 ALEJANDRO AGUIRRE AND MOTION FOR RELIEF FROM
PD-1 ADRIANA CRUZ AUTOMATIC STAY
9-25-13 [[28](#)]
WELLS FARGO BANK, N.A. VS.

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received their discharges on June 26, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c) (2) (C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d) (1) and (d) (2) in order to permit the movant to foreclose on the real property located at 8138 Colonial Drive, Stockton, CA 95209 ("Property") and to obtain

possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. The court awards no fees and costs. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make seven (7) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution. The debtors have filed a statement of intent to surrender the Property.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

3. [13-28719](#)-B-7 LINDA LAWRENCE MOTION FOR RELIEF FROM
NFS-1 AUTOMATIC STAY
10-3-13 [[19](#)]
GREENTREE SERVICING LLC VS.

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

4. [13-28823](#)-B-7 NORTHERN SIERRA HOMES MOTION FOR RELIEF FROM
DBJ-1 LLC AUTOMATIC STAY
8-28-13 [[13](#)]
CITY OF SUSANVILLE VS.

Tentative Ruling: The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. §§ 362 (d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located in Lassen County, CA (APN 101-271-16) ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. The court awards no fees and costs. Except as so ordered, the motion is denied.

Movant alleges without dispute that it holds a judgment entered in the Lassen County Superior Court, case no. 50050, against the debtor in the amount of \$210,000.00, secured by the Property, on which the debtor has made no payments. Debtor's Schedule A (Dkt 1, p.6) states under penalty of perjury that the Property is worth at most \$500,000.00. Additionally, debtor's Schedule D (Dkt. 1, p.13) shows encumbrances on the Property totaling \$932,060.00. Movant has demonstrated that there is no equity in the Property and that the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion and a report of no

distribution.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

5. [13-29923](#)-B-7 TYESHA DAVIS MOTION FOR RELIEF FROM
TJS-1 AUTOMATIC STAY
9-23-13 [[33](#)]
JPMORGAN CHASE BANK, N.A.
VS.

Tentative Ruling: The motion is dismissed as moot. The automatic stay terminated as to the collateral, a 2009 Chevrolet Impala (VIN 2G1WT57N191287066) (the "Collateral"), at 12:01 a.m. on August 29, 2013, by operation of 11 U.S.C. § 362(h), and the Collateral has from that date no longer been property of the estate.

In order to avoid an automatic termination of the automatic stay under Section 362(h)(1), the debtor must do three things. First, the debtor must timely file a statement of intention. Second, the debtor must indicate in the statement specific things - that the debtor will either surrender or retain the collateral, and if retaining, either redeem the collateral or reaffirm the debt secured by the collateral. Third, the debtor must timely perform the stated intention. See Dumont v. Ford Motor Credit Co. (In re Dumont), 383 B.R. 481, 486 (B.A.P. 9th Cir. 2008). A statement of intention is timely filed if it is filed "within thirty days after the date of the filing of a petition under chapter 7 of this title or on or before the date of the meeting of creditors, whichever is earlier..." 11 U.S.C. § 521(a)(2)(A).

The debtor filed her voluntary chapter 7 petition on July 29, 2013. Pursuant to 11 U.S.C. § 521(a)(2)(A), the debtor was to file with the court her statement of intention regarding the Collateral by August 28, 2013. As of the date of this hearing, October 29, 2013, the debtor has failed to file her statement of intention. Therefore, the automatic stay with respect to the Collateral has already terminated by operation of 11 U.S.C. § 362(h)(1) and the movant has already received the relief it seeks.

The court will issue a minute order.

6. [13-30832](#)-B-7 JOSHUA/ANDREA HOOVER MOTION FOR RELIEF FROM
EGS-1 AUTOMATIC STAY
9-30-13 [[11](#)]
GUILD MORTGAGE COMPANY VS.

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against

the estate and the debtors pursuant to 11 U.S.C. §§ 362 (d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 18265 West View, Pine Grove, CA 95665 ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make eight (8) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion and a report of no distribution.

The court will issue a minute order.

7. [13-31233](#)-B-7 TAMMIE URSINI
ABG-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY AND/OR MOTION
FOR ADEQUATE PROTECTION
9-26-13 [[9](#)]

21ST MORTGAGE CORPORATION
VS.

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. § 362 (d)(1) and (d)(2) in order to permit the movant to obtain possession of its collateral, a 1978 Skyline mobile home (Serial Number 01741088AL/BL; Decal Number LAK1781) (the "Collateral"), to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is ordered waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make three (3) payments. Movant also alleges without dispute that there is no equity in the Collateral and the Collateral is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a statement of non-opposition to the motion and a report of no distribution. The debtor has filed a statement of intent to surrender the Collateral.

The court will issue a minute order.

8. [13-25335](#)-B-7 WILLIE WALKER
NLG-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-18-13 [[27](#)]

FEDERAL NATIONAL MORTGAGE
ASSOCIATION VS.

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtor, the motion is dismissed as moot. The debtor received his discharge on September 27, 2013, and the automatic stay as to the debtor ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 357 Tulip Street, Fairfield, CA 94533 ("Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. The court awards no fees and costs. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make fifteen (15) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

9. [13-30639](#)-B-7 CHARLES/ROXANA PUERNER
NFS-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-2-13 [[13](#)]

GREENTREE SERVICING LLC VS.

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

10. [13-31639](#)-B-7 JOHNNY CALZASCIA
SNM-1

MOTION TO APPROVE STIPULATION
FOR RELIEF FROM THE AUTOMATIC
STAY
10-8-13 [[28](#)]

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

11. [13-31639](#)-B-7 JOHNNY CALZASCIA
SW-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-2-13 [[22](#)]

WELLS FARGO BANK, N.A. VS.

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. In this instance, because the debtor has filed a statement of intention to surrender the Collateral (as that term is defined herein), the court issues the following tentative ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. § 362 (d)(1) and (d)(2) in order to permit the movant to obtain possession of its collateral, a 2005 BMW 545i (VIN WBANB33535CN65273) (the "Collateral"), to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim including any attorneys' fees awarded herein. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is ordered waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make five (5) payments. Also, movant alleges without dispute that there is no equity in the Collateral and the Collateral is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The debtor has filed a statement of intention to surrender the Property. The trustee has filed a report of no distribution and a statement of non-opposition to the motion.

The court will issue a minute order.

12. [13-20440](#)-B-7 JOHN/GAIL SIMS
PD-1

MOTION FOR RELIEF FROM
AUTOMATIC STAY
9-19-13 [[19](#)]

HSBC BANK USA, NATIONAL
ASSOCIATION VS.

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received a discharge on April 29, 2013 and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 40775 Leeward Road, Sea Ranch, California (APN 156-470-020) (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is waived. The court awards

no fees or costs. S Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtors have failed to make twenty-four (24) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case.

Because the movant has not established that the value of its collateral exceeds the amount of its claim, the court awards no fees and costs. 11 U.S.C. § 506(b).

The court will issue a minute order.

13. [13-32865](#)-B-7 APNA INVESTMENTS, INC., MOTION FOR RELIEF FROM
SNM-1 A CALIFORNIA CORPORATION AUTOMATIC STAY
10-11-13 [[14](#)]
JANET SINIORA VS.

Tentative Ruling: This is a properly filed motion under LBR 9014-1(f)(2). Opposition may be presented at the hearing. Therefore, the court issues no tentative ruling on the merits of the motion.

14. [13-31070](#)-B-7 SUZANNE HOOKALLEN MOTION FOR RELIEF FROM
PKB-1 AUTOMATIC STAY
9-27-13 [[13](#)]
GREEN TREE SERVICING LLC VS.

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part. The automatic stay is modified as against the estate and the debtor pursuant to 11 U.S.C. § 362 (d)(1) and (d)(2) in order to permit the movant to obtain possession of its collateral, a 1995 24x40 Champion G44 Manufactured Home, Ser. No. 0996644381A/B (the "Collateral"), to dispose of it pursuant to applicable law, and to use the proceeds from its disposition to satisfy its claim including any attorneys' fees awarded herein. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is ordered waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make three (3) payments. Also, movant alleges without dispute that there is no equity in the Collateral and the Collateral is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The debtor has filed a statement of intention to surrender the Property. The trustee has filed a report of no distribution.

The court will issue a minute order.

15. [13-22683](#)-B-7 MARLON/NIKKI HUMPHREYS MOTION FOR RELIEF FROM
NLG-1 AUTOMATIC STAY
9-17-13 [[30](#)]

FEDERAL NATIONAL MORTGAGE
ASSOCIATION VS.

Disposition Without Oral Argument: This motion is unopposed. The court issues the following abbreviated ruling.

The motion is granted in part and dismissed as moot in part. As to the debtors, the motion is dismissed as moot. The debtors received a discharge on June 3, 2013, and the automatic stay as to the debtors ended on that date. 11 U.S.C. § 362(c)(2)(C). As to the estate, the automatic stay is modified pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) in order to permit the movant to foreclose on the real property located at 1403 Klamath Drive, Suisun City, California (the "Property") and to obtain possession of the Property following the sale, all in accordance with applicable non-bankruptcy law. The 14-day period specified in Fed. R. Bankr. P. 4001(a)(3) is not waived. Except as so ordered, the motion is denied.

Movant alleges without dispute that the debtor has failed to make seven (7) mortgage payments. Movant further alleges without dispute that there is no equity in the Property and the Property is not necessary to an effective reorganization or rehabilitation in this chapter 7 case. The trustee has filed a report of no distribution.

The court will issue a minute order.

16. [13-21893](#)-B-7 STANISLAV LAZUTKINE MOTION TO CONFIRM TERMINATION
MF-1 OR ABSENCE OF STAY AND/OR
MOTION FOR RELIEF FROM
AUTOMATIC STAY
10-1-13 [[50](#)]

CORRIGAN FINANCE LIMITED VS.

Tentative Ruling: None.